IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.429 OF 2005
IN
ORIGINATING SUMMONS NO.1025 OF 2004
IN
SUIT NO.1212 OF 2004

Jayawanti Dawood Khalfe .. Appellant.

V/s.

Pushpa Ramdas & Others .. Respondents.

Mr.Chirag Balsara with Mr.N.R. Modi & Ms.Falguni Thakkar i/b. Rustomji & Giniwala for the appellants.

Mr.A.Y. Bookwala with Mr.Jariwala i/b. Thakordas Jariwala & Associates for respondent Nos.1 to 3.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 21ST JUNE, 2005.

P.C. :

Heard.

2. The learned counsel for the appellants and the learned counsel for respondent Nos.1 to 3 agreed that without prejudice to the rights and contentions of the parties in the proceedings, order dated January 25, 2005 passed by the learned Single Judge be set aside and the originating summons No.1025 of 2004 be restored for fresh consideration along with Probate Petition No.488 of 2000.

3. In the light of the submission of the learned counsel for the appellants and respondent Nos.1 to 3, we set aside the order dated January 25, 2005 and restore the originating summons No.1025 of 2004 to file for fresh consideration in accordance with law along with Probate Petition No.488 of 2000. All contentions of the parties are kept open to be agitated before the learned Single Judge.

4. Ad-interim order dated May 6, 2005 shall continue to operate for four weeks to enable the appellant to apply to the learned Single Judge for appropriate interim relief.

5. The appeal is disposed of in aforesaid terms.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)